

REMARKS

Claims 1 to 16 and 19 to 29 remain pending. Claims 11, 12 and 19 to 24 remain withdrawn. Claims 17 and 18 have been cancelled.

Claims 1 to 10, 13 to 18 and 25 to 29 have been rejected under 35 U.S.C. 112, first paragraph, for being nonenabling. The Action admitted that the specification was enabling for homogenized seed cell broth. The Action also stated that the specification was not enabling for cultured, substantially undifferentiated plant seed cells. The Action further stated that the claims encompassed a wide class of cultured plant seed cells. The Action stated that the claims covered whole seeds because the cells were not processed. The Action admitted that the state of the art did not recognize the incorporation of cultured neem seed cells in a pharmaceutical or cosmetic composition or in a method for improving the aesthetic appearance of skin.

The rejection of claims 1 to 10, 13 to 18 and 25 to 29 under 35 U.S.C. 112, first paragraph, is overcome in view of the amendments thereto. Independent claims 1 and 13 require a composition having a broth of cultured, homogenized, undifferentiated plant seed cells, which is clearly enabled in the specification. Selection of undifferentiated plant seed cells is disclosed at pages 3 and 4. Culturing is disclosed at pages 5 and 6. Homogenizing is disclosed at page 6. Means of incorporating the broth into compositions is disclosed at page 7. Different varieties of plant cell seeds are disclosed at page 9 and Examples 1 to 5.

Claims 17 and 18 have been rejected under 35 U.S.C. 112, first paragraph, for being nonenabling. The Action admitted that the specification was enabling for improving the aesthetic appearance of skin. The Action stated that the specification did not enable the recited list of conditions in the claims. The Action stated that the multiple skin conditions had unrelated manifestations.

The rejection of claims 17 and 18 under 35 U.S.C. 112, first paragraph, is moot since they have been cancelled.

Claims 1, 8 to 10, and 13 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 2002/0071878 ('878). The Action stated that '878 disclosed a topical cosmetic composition having cultured seed cells obtained from cucumber and carrot.

The rejection of claims 1, 8 to 10, and 13 under 35 U.S.C. 102(b) over '878 is overcome in view of the amendments to independent claims 1 and 13 requiring the plant seed cells be homogenized and undifferentiated. '878 discloses culturing of plant cells derived from various parts of plants, such as bulblets, combs, roots, seeds, and dorman extracts (paragraph 0039). '878 discloses homogenizing of plant material at paragraphs 0041, 0090, and 0143. Paragraphs 0090 and 0143 disclose homogenizing bulb cell cultures. '878 discloses differentiation of cells generally at paragraph 0006 in the Background of the Invention. '878 cannot anticipate claims 1 and 13 for the following reasons: 1) while '878 utilizes homogenizing in two different examples, paragraphs 0090 and 0143, it is not present in most of the disclosed examples nor is it indicated as being required by the general teachings of the reference and 2) the two procedures in which homogenizing was employed (paragraphs 0090 and 0143) related to bulb cell cultures rather than seed

cell cultures. Paragraph 0041 discloses preferred teachings, but this is with respect to product form, i.e., aqueous extract. Homogenizing is merely disclosed as one of any number of known means for obtaining an aqueous extract. Claims 6 and 14 further distinguish over '878 since they require the plant seed cells be neem seed cells, which are not disclosed therein. Claims 26 to 29 further distinguish over '878 since they each require a specific variety of plant seed cell, none of which are disclosed in '878.

Claims 2 to 7, 14 to 18, and 25 to 29 have been rejected under 35 U.S.C. 103(a) as being anticipated by '878 in view of WO 00/64472 ('472). The Action stated that '472 disclosed a method and dermatological composition using a fruit extract at 0.1 to 20%. The Action stated that it was obvious to manipulate the amount of cultured cell seeds in the composition of '878 to achieve a beneficial effect and to select specific seeds depending on a specific condition in view of the disclosure of '472.

The rejection of claims 2 to 7, 14 to 18, and 25 to 29 under 35 U.S.C. 103(a) over '878 in view of '472 is not well taken in view of the amendments to independent claims 1 and 13 and the remarks provided in response to the rejection under 35 U.S.C. 102(b). Thus, combination of the two references cannot yield the claimed invention.

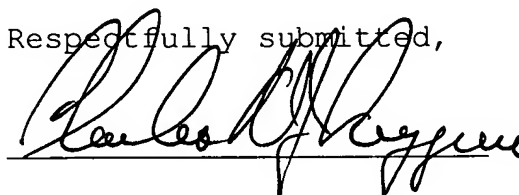
Independent claims 1 and 13 provide that the plant seed cells be undifferentiated. As disclosed in the specification at page 4, lines 22 to 27, undifferentiated seed cells are those that are in the undifferentiated state, including those that have been de-differentiated into the undifferentiated state.

Applicants are aware that U.S. Serial No. 10/845,603, filed May 14, 2004, may contain subject matter, including claims, that may be similar to that of the present application.

Reconsideration of claims 1 to 16 and 19 to 29 is deemed warranted in view of the foregoing, and allowance of said claims is earnestly solicited.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N. J. Ruggiero", is written over a horizontal line.

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